

TACKLING HIV POLICY ISSUES: PROCESS AND STEP 2

NOVEMBER 2003

INTRODUCTION

Since 1988, the AIDSNET Council comprised of local public health officials has met regularly with Department of Health staff to coordinate services and policies for HIV prevention and care in Washington State.

In the year 2000, the AIDSNET Council appointed a work group to review the AIDS Omnibus Law (Chapter 70.24 RCW, Control and Treatment of Sexually Transmitted Diseases). Its intent was to look at this chapter of the RCW solely through the "lens" of public health and recommend ways to bring these laws up to date with the evolution of current public health practice—for example, by addressing other bloodborne infections. The group completed its draft work in spring 2002 with the intention of then 'handing off' this review to a broader community. Other recent looks at the state of HIV policy include the reports from the 2001 HIV Policy Summit and HIV Prevention Study Committee (March 2002).

As the key statewide agencies, the Washington State Department of Health and the State Board of Health have been asked by the Washington State Association of Local Public Health Officers (WSALPHO) to "consider a process to update policies, rules, and/or regulations concerning HIV/AIDS and other bloodborne infections to reflect advances in the science of disease prevention and current best public health practices."

Initially, the two agencies consulted with key stakeholders regarding the proposed process by inviting a broad range of stakeholders to develop additional issues to be considered that are not included in the AIDSNET issue papers.

In May of 2003, approximately 2,000 notices were sent to interested persons seeking comments on potential issues to be considered in the HIV Policy Review. This mailing resulted in eighteen responses. Comments ranged from support of all of the AIDSNET issue papers to near maintenance of current state laws and regulations. Some respondents raised specific issues not addressed in the issue papers but addressed in either the HIV Prevention Study or the HIV Summit Report.

Staff of the Department of Health (DOH) and the State Board of Health (SBOH) reviewed all of the comments as well as the AIDSNET issue papers and the two reports cited above. Other inputs included the Washington State Association of Local Public Health Officials December 2002 resolution and the Advancing HIV Prevention Initiative announced by the federal Centers for Disease Control and Prevention in May of 2003.

Guiding principles used by staff in this review process included: new and distinct; not a continuation of any one previous process; a specific focus of recommending changes (fixes and updates to 1988 AIDS Omnibus Act, Chapter 70.24 RCW) and related WACs; product-oriented (not just another pretty process); WAC preferred over RCW where possible; collaborative, inclusion of multiple perspectives; and direct involvement of senior SBOH and DOH policy staff throughout.

Consistent with the process announced in April 2003, continuation of this process is as follows:

State Board of Health Rules

File a Preproposal Statement of Inquiry (CR-101) as soon as practical (September 2003) to review certain sections of chapters 246-100 and 246-101 of Washington Administrative Codes. These sections include:

- HIV Counseling and Testing
- Notification of Sexual and Needle-Sharing Partners of Persons with HIV
- Bloodborne Pathogens

The rationale for immediate consideration of each of these issues, rule review principles, anticipated scope, and tentative timelines are provided on attachments A and C.

HIV Policy Collaborative

In the winter of 2003/4, the Department and the Board should convene a panel of 14-16 persons representing agencies/groups that have been historically influential on HIV legislative and policy issues. The purpose of the panel would be (1) to help the agencies identify issue-specific workgroups that would be charged with reviewing specific policy areas in an attempt to develop consensus or majority recommendations for changes in state statutes, and (2) at the conclusion of the process, assess likelihood of constructive legislative changes and identify agencies or groups willing to sponsor or take the lead in supporting such changes. As part of the overall process, restrictive measures (i.e., behaviors endangering the public health) would be addressed according to a separate timeline.

The scope and anticipated outcomes of the HIV Policy Collaborative are presented in Attachment B.

Attachment A: Proposed Rules Changes

RATIONALE FOR IMMEDIATE CONSIDERATION OF CERTAIN ISSUES

Each of the following issues has been identified in multiple recent reports to the Department as an issue or topic that merits attention in order to improve HIV prevention services. Inclusion in this listing does not imply consensus on possible solutions or even identification of the barriers to improvement. However, all identify the need for changes in policy, practice or both.

Issue 1 - HIV Counseling and Testing

Study Recommendation 17: In considering recommendations for statutory or rule changes, the Secretary should ensure they are scientifically sound; decrease barriers to both providers and clients in the areas of testing and counseling, and diagnosis and care; and represent good public health practice.

Summit Recommendation: Increase the proportion of at-risk persons with knowledge of their HIV serostatus by: ensuring state laws and rules reflect current knowledge of HIV counseling and testing; promoting consistent quality services reflective of best practices, including use of peers and community leaders to assure cultural competence; and promoting the availability of services in related systems (e.g., criminal justice).

Summit Recommendation: Increase the proportion of at-risk persons with knowledge of their HIV serostatus by: promoting broad high-risk population awareness of the benefits of HIV counseling and testing; increasing access to new HIV testing technologies and reducing the length of time required for reporting of test results.

AIDSNET Issue Paper 1: Barriers to HIV Counseling and Testing

Issue 2 - Notification of Sexual and Needle-Sharing Partners of Persons with HIV

Study Recommendation 11: The Department and the regional AIDSNETs should seek out and develop more mechanisms for interaction and collaboration between care and prevention services.

Summit Recommendation: Increase the proportion of at-risk persons with knowledge of their HIV serostatus by: improving disease control practices (e.g., case finding, partner notification, and peer recruitment of at-risk individuals) in or incorporating them into existing care and prevention programs.

AIDSNET Issue Paper 3: Barriers to Notifying Partners at Risk of HIV Infection

Issue 3 - Bloodborne Pathogens

Study Recommendation 15: The State should seek additional resources to broaden the HIV/AIDS prevention approach to encompass other bloodborne pathogens. In doing so, highest priority for AIDS Omnibus Act funding should continue to be on HIV/AIDS prevention and education to high-risk populations.

Summit Recommendation: None

AIDSNET Issue Paper 2: Absence in RCW and WAC of Prevention and Control of Bloodborne Infections other HIV

Hepatitis C Virus Plan: Pending submission

RULE REVIEW PRINCIPLES

- Managed by SBOH and DOH policy and program staff
- Focus on Washington Administrative Code revisions (chapters 246-100 & 101 WAC)
- Guided by standard Administrative Procedures Act procedures
- Proactive contacts to solicit engagement from variety of stakeholders
- Stakeholder meetings to be held both in eastern and western Washington
- State Board of Health public hearings as part of the CR 102 process

ANTICIPATED SCOPE

- Counseling and testing standards (rapid testing, lower barriers, routine practice, consent)
- Partner notification
- Inclusion of bloodborne pathogens language to the extent allowed by current statutory authority
- Clarify and shorten; eliminate if unnecessary, arbitrary, counterproductive, dated or ineffective rules
- Will NOT review use of restrictive measures, danger to others at this time

TENTATIVE TIMELINES

- See Attachment C

Attachment B

HIV POLICY COLLABORATIVE When the 1988 AIDS Omnibus law was enacted, it set out a national model for HIV/AIDS statutes and subsequent regulations. This comprehensive legislation was developed by a broad spectrum of participants ranging from legislators, public health leaders, medical associates, community organizations, activists and persons living with AIDS. In the ensuing 15 years there have been several major changes impacting public health practice with regard to this disease, including the introduction in the mid 1990s of effective drugs to suppress the progression of disease and recent evidence of increases in risk behaviors and HIV incidence. In addition there continue to be technological advances, such as rapid HIV tests, which were not anticipated when the original legislation was written.

To address those changes and improve the rules and regulations governing the testing, care and treatment of HIV/AIDS, the Washington State Department of Health and the State Board of Health are now embarking on a broad collaborative process to ascertain issues, identify priorities and advance public policy solutions.

CHARGE

- Ascertain issues and identify and advance preferred public policy solutions.
- Convene/charge workgroups to recommend specific language changes to Chapter 70.24
- Roll up workgroup recommendations, assess authorizing environment, and seek consensus regarding policy options
- For restrictive measures, convene/charge a workgroup to consider RCW and/or WAC changes

MEMBERSHIP Includes groups traditionally engaged in shaping HIV policy in Washington, for a total of 14 to 16 members. Groups would be empowered to choose their own representative, within the limitations noted below.

In addition to the Department and the Board, other members would be drawn from groups such as:

- Governor's Advisory Council on HIV/AIDS
- Hepatitis C Organizations
- AIDS Service Organizations
- Consumer/Person Living With HIV/AIDS (2)
- Regional AIDS Service Networks
- University of Washington
- Statewide HIV Prevention Planning Group
- Washington State Association of Local Public Health Officials
- Health-related Associations
- Others including communities of color

INITIAL STEPS DOH contacts/recruits groups

- Groups select representatives Initial meeting—review charge, history, inputs, desired outcomes, time factors
- Second meeting—rule report, HCV report, identify RCW workgroups (see below), identify prospective members
- Establish process for review of restrictive measures/endangering others

ISSUE WORKGROUPS

CHARGE Recommend changes (fixes and updates) to existing statute—propose specific language to Collaborative

- Changes should not duplicate or negate work of the rules group
- Test proposed language against screens and provide explanation to Collaborative
- Empower representative to Collaborative Plus

MEMBERSHIP

- Selected by Collaborative
- Technical expertise (medical, legal, etc.) encouraged from inside the Department/Board and outside the agencies
- All affected stakeholders (e.g., EMTs for occupational exposure)
- Selected for diversity, e.g., communities of color; viewpoints/interests; east/west, urban/rural
- May include additional Collaborative members
- Staffed by DOH and/or SBOH

TOPICS Number and subjects determined by Collaborative, with a preference of inclusion of issues rather than exclusion of issues. Likely topics include:

- Disclosure to exposed persons (Good Samaritan Plus)
- Disclosure to prospective sexual or needle-sharing partners
- Non-licensed public health worker administering vaccines
- Other topics recommended by rule review group
- Other topics recommended as part of HCV plan

SCREENS Developed by DOH and SBOH staff

- Reviewed by Collaborative
- Screens: *Evidence-based*: Data supports efficacy and effectiveness, reduced prevalence, morbidity, mortality; *Political viability*: Assess authorizing environment, likelihood of success, associated risks, etc.; *Human rights impact*: Properly targeted, least intrusive measures, etc.

OTHER Meet monthly; Work by e-mail in interim

- DOH and SBOH staff will do drafting, logistical support
- Timeline presented in Attachment C

RESTRICTIVE MEASURES WORKGROUP - Membership determined by Collaborative

- Same charge as other workgroups EXCEPT more likely to consider changes in rule as well as statute
- Attempt to integrate workgroup proposals to extent possible
- Process will take as long as necessary, see Attachment C for timeline

ATTACHMENT C**HIV POLICY REVIEW TIMELINE BY ACTIVITY**

MONTH	RULE REVIEW (WAC ACTIVITY)	COLLABORATIVE (RCW ACTIVITY)
August 2003	Staff gain DOH/SBOH “buy-in” to process	Staff gain DOH/SBOH “buy-in” to process
September	FILE CR 101.	
October		
November		Recruit Groups
December	Staff prepare materials for meetings	Groups select representative
January 2004	Stakeholder Meetings – Spokane (tentatively Friday 1/16), and Tacoma (tentatively Friday, 1/23).	Meeting #1 – forming and norming. Negotiate and agree to charge/scope. Identify workgroup topics. Location = Kent
February	Provide report to Collaborative	Meeting #2 – Receive rule report and HCV report. Review/amend workgroup topics. ¹ Identify prospective members. Location = Kent
March	Staff draft WAC revisions	Workgroup meetings. Staffed by DOH/SBOH
April	Staff draft WAC revisions	Workgroup meetings. Staffed by DOH/SBOH
May	Extensive Review of Proposed WAC. Meeting # 1 in Olympia, Seattle, Spokane, and Yakima	Meeting #3 Collaborative rolls up workgroup recommendations, discusses authorizing environment, looks for possible consensus on next steps, strategy and sponsors
June	Extensive Review of Proposed WAC. Meeting # 2 in Seattle and Spokane	Proposed RCW changes to be sponsored by DOH/SBOH due
July	Extensive Review of Proposed WAC. (As needed to complete meetings 1 and 2)	Prepare agency package for OFM (if needed)
August	File CR 102	Prepare agency package for OFM (if needed) Submit to OFM (if needed)
September	SBOH Public Hearing on Proposal	
October	SBOH Rule adoption	
November		
December		

¹ SBOH/DOH will ask the HIV Collaborative to convene a workgroup on restrictive measures and behaviors endangering others. This workgroup is expected to consider rule changes as well as statutory changes. Because of the controversy and complexity surrounding this issue, this workgroup’s work will not be constrained by the timelines that apply to other HIV Collaborative workgroups.
Process and Step 2 – 11/14/03